



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 23.03.2022

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.29654 of 2011
and
M.P.No.1 of 2011
WMP.NO.12884 of 2017

N.Nagarajan

...Petitioner

-Vs-

1.State of Tamil Nadu,
Rep. by its Secretary,
Finance Department,
Fort St. George, Chennai - 600 009.

2.The Director of Local Fund Audit,
Kuralagom, Chennai - 600 108.

3.The Commissioner,
Cuddalore Municipality,
Cuddalore.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the recovery proceedings in **ந.க.என்: 13973/09/ஈ**, dated 07.12.2011 passed by the 3rd respondent and quash the same and direct the respondents to pay the pensionary benefits with 18% interest.

For Petitioner : Mr.A.R.Nixon

For Respondents: Mr.T.Chezhiyan, AGP

ORDER

With the consent of both the parties, this writ petition is taken up for final disposal.

2. The petitioner herein had retired from service as a Revenue Assistant on 30.04.2010. Based on an internal audit objection by the Director of Local Fund Audit, the third respondent herein had issued the impugned proceedings dated 07.12.2011, ordering for recovery of a sum of Rs.1,17,563/-, on



5. In view of the law laid down by the Hon'ble Supreme Court in White Washer's case (supra) and also by taking note of the fact that the order is in violation of the principles of natural justice, the action initiated by the third respondent for recovering the amount, cannot be sustained. Since the entire proceedings is illegal, the third respondent is bound to repay the aforesaid amount, together with interest.

6. In the light of the above observations, the impugned order dated 07.12.2011 is quashed. Consequently, there shall be a direction to the third respondent to forthwith refund the amount of Rs.1,17,563/-, together with interest at the rate of 12% per annum (compounded annually), to the petitioner, from the date of recovery till the date of actual payment. The third respondent shall endeavour to pass such orders of refund, atleast within a period of four (4) weeks from the date of receipt of a copy of this order.

7. The Writ Petition stands allowed, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

hvk
To

- 1.The Secretary,
Finance Department,
Fort St. George,
Chennai - 600 009.
- 2.The Director of Local Fund Audit,
Kuralagom, Chennai - 600 108.
- 3.The Commissioner,
Cuddalore Municipality,Cuddalore.

+1 cc to Mr.A.R.Nixon, Advocate Sr.NO. 19758
+1 cc to Government Pleader Sr.NO. 19891

W.P.No.29654 of 2011
and
M.P.No.1 of 2011

GPL(CO)
A.SK(01/04/2022)